

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**FIDELITY AND DEPOSIT COMPANY
OF MARYLAND,**

Plaintiff,

v.

Case No: 2:21-cv-03576-WB

MAIN STREET PHASE II, L.P.

and

MAIN STREET PHASE III, L.P.,

Defendants.

**PLAINTIFF'S MOTION TO DISMISS DEFENDANTS' COUNTERCLAIM WITH
PREJUDICE, OR IN THE ALTERNATIVE, TO COMPEL ARBITRATION**

Plaintiff, Fidelity and Deposit Company of Maryland ("F&D") hereby respectfully moves this Honorable Court under Fed. R. Civ. P. 12(b)(6) to dismiss the Counterclaim filed by Defendants Main Street Phase II, L.P. and Main Street Phase III, L.P. (collectively, "Main Street"), with prejudice. In the alternative, F&D respectfully moves this Honorable to compel arbitration of the Counterclaim in accordance with Section 4 of the Federal Arbitration Act ("FAA"), 9 U.S.C. § 4. The grounds for this Motion to Dismiss, or in the alternative, to Compel Arbitration, are provided in the accompanying Memorandum of Law. A proposed order also is enclosed.

WHEREFORE, Plaintiff, Fidelity and Deposit Company of Maryland ("F&D") respectfully requests that the Court grant its Motion to Dismiss, or in the alternative, to Compel Arbitration and dismiss the Counterclaim with prejudice.

ORAL ARGUMENT IS RESPECTFULLY REQUESTED

Dated: June 1, 2022

Respectfully Submitted,

/s/ Noah H. Charlson

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Fidelity and Deposit Company of Maryland

CERTIFICATE OF SERVICE

I certify, that on the 1st day of June 2022, the foregoing Motion to Dismiss, or in the Alternative, to Compel Arbitration, was served upon the following by the Court's ECF system:

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